

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

November 14, 2007

## DIVISION TWO

B185614      People                                  (Not for Publication)  
v.  
Presley, et al.

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                      Doi Todd, J.

B191256 People (Certified for Partial Publication)  
B192771 v.  
Campos, et al.

The judgments are affirmed.

Ashmann-Gerst, J.

We concur: Doi Todd, Acting P.J.  
Chavez, J.

### DIVISION THREE

Court convened at 9:30 a.m.

Present: Klein, P.J., Croskey, J., Kitching, J. and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B199339 DCFS v. Phillip M.  
B188533 People v. Jonathan Ming Chiu  
B189679 People v. Richard Sanders  
B194701 People v. Jason Hill  
B196121 DCFS v. Debbie B.

Argument waived, cause submitted.

B193331      ZAP  
                 v.  
                 Daimler Chrysler AG et al

Merits:

Argued by Eric M. George for appellant and by Matthew J. Kemmer and Marjorie E. Lewis for respondents. Cause submitted.

B187366      Akhi Raheem Muhammad  
                 v.  
                 Raymond Vargas

Appearances:

Ann Maurer for respondent and no appearance by appellant. Argument waived, cause submitted.

B188716      Walter Bithell  
                 v.  
                 EP Management Services LP et al

Merits:

Argued by appellant Walter Bithell in propria persona and by Lawrence Michaels and Maxwell M. Belcher for respondents. Cause submitted.

DIVISION THREE (continued)

B194771      Sierra Club et al  
                 v.  
                 City of Santa Clarita et al

Merits:

Argued by Babak Naficy for appellant and by Robert McMurry for respondents. Cause submitted.

Court recessed.

Court reconvened at 1:45 p.m.

Present: Klein, P.J., Croskey, J., Kitching, J. and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B194445 People v. Doheen P.  
B195191 People v. Jerry M. Huff

Argument waived, cause submitted.

B194919      Alejandra Garibay  
                 v.  
                 Mehdi Hemmat, M.D. et al

Merits:

Argued by Edward Hess for appellant and by David P. Pruett for respondent. Cause submitted.

DIVISION THREE (continued)

B196789 Molly A. Moreno et al  
v.  
Kaiser Foundation Health Plan

Merits:

Argued by Nathaniel J. Friedman for appellants and by Lawrence Cox and N. Denise Taylor for respondent. Cause submitted.

B193329 Howard Sonn et al  
v.  
Daewood Motor America Inc.

Merits:

Argued by Jim Travis Tice for appellant and by Martin K. Deniston for respondent. Cause submitted.

B193543 Monticello Insurance Company  
v.  
Guaranty National Insurance Company et al

Merits:

Argued by Sherry L. Pantages for appellant and by Bryan M. Weiss for respondents. Cause submitted.

Court adjourned.

DIVISION FOUR

B201630 Summer N. (Not for Publication)

v.  
Superior Court, Los Angeles County  
(DCFS, r.p.i.)

The petition is denied.

Willhite, J.

We concur: Epstein, P.J.  
Manella, J.

B194433 Park et al. (Not for Publication)

v.  
Korea Radio Usa, Inc., et al.

The judgment (order of dismissal) is affirmed.

Willhite, Acting P.J.

We concur: Manella, J.  
Suzukawa, J.

DIVISION FIVE

B195252 Howard Mills (Not for Publication)

v.  
Bellwood Laundry and Linen Supply

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, Acting P.J.

We concur: Mosk, J.  
Kriegler, J.

## DIVISION FIVE (continued)

B175590      People      (Not for Publication)

V.

Kenneth James Smith

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.

Kriegler, J.

B184068 People (Not for Publication)

V.

Joseph E. Senegel

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.

Kriegler, J.

B192445 People (Not for Publication)

V.

Billy D. Lindley

The judgment is affirmed.

Armstrong, J.

We concur:     Turner, P.J.

Kriegler, J.

November 14, 2007 (Continued)

## DIVISION FIVE (continued)

B198031      People                                  (Certified for Partial Publication)  
v.  
Timothy McCoy

The judgment is modified to: impose a \$15 state court construction penalty pursuant to Government Code section 70372, subdivision (a); impose a \$10 state surcharge pursuant to Penal Code section 1465.7, subdivision (a); and vacate all of the restitution fines. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Armstrong, J.  
Mosk, J.

B192178      People  
v.  
Henry Beserra, Jr.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

## DIVISION SIX

Court convened at 9:00 a.m.

Present: Gilbert, P.J., Yegan, J., Coffee, J. and G. Bents, Senior Deputy Clerk.

B192987      Breda  
v.  
Cuykendall

Merits:  
Argued by Frank P. Cuykendall, Esq., appellant in propria persona and by Penny Clemmons for respondent. Cause submitted.

DIVISION SIX (continued)

B189730     LeSage  
B195405     v.  
              LeSage

Merits:

Argued by Michael T. LeSage, Esq., appellant in propria persona; by John F. Hodges for respondent Joanne E. LeSage; and by Sue N. Carrasco for respondents Schwarz, et al. Cause submitted.

B195381     Peterson-Howard  
              v.  
              Howard

Merits:

Argued by Daren Michael Howard, appellant in propria persona and by Robert H. Mott for respondent. Cause submitted.

Court recessed.

Court reconvened at 1:30 p.m.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B199256     Dept. of Social Services v. Samantha D. and Terrence R.

Argument waived, cause submitted.

B195850     Cordier  
              v.  
              County of Ventura

Merits:

Argued by David A. Cordier for appellant. Jeffrey Held appeared for respondent and waived oral argument. Cause submitted.



DIVISION SIX (continued)

B195881     Meade  
              v.  
              State of California

Merits:

Argued by Brian Kelley Brandt for appellant and by Kenneth G. Nellis, Deputy Attorney, Dept. of Transportation for respondents. Cause submitted.

B190338     Toll  
              v.  
              Ginsburgh

Merits:

Argued by Wendy C. Lascher for appellant and by Stephen C. Pasarow for respondent. Cause submitted.

B191818     McGovern  
              v.  
              Karcis

Merits:

Robert J. Bayer, Esq. appeared on behalf of respondent and requested leave of court to argue. Counsel for appellant opposed the request. The court denied Mr. Bayer's request.

Argued by Morton A. Kamzan for appellant and argument previously waived by respondent. Cause submitted.

DIVISION SIX (continued)

B192118     Becker  
              v.  
              Eschen

Merits:

Argued by Peter J. Anderson for appellant and by Soma F. Baldwin for respondent. Cause submitted.

B193443     Browning-Ferris Ind.  
              v.  
              Worker's Compensation Appeals Board  
              Salter, Respondent

Review:

Presented by James C. Shipley for petitioner and by David T. Holzman for respondent Salter. Respondent Workers' Compensation Appeals Board previously waived presentation. Cause submitted.

Court recessed.

Court reconvened at 3:20 p.m.

Present: Gilbert, P.J., Coffee, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B192452     Lord  
              v.  
              Smithline

Merits:

Argued by Ronald L.M. Goldman for appellant and by Alan J. Lazarus for respondent. Cause submitted.

Court recessed.

November 14, 2007 (Continued)

## DIVISION SEVEN

B191519      People  
v.  
Harrison

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

## DIVISION EIGHT

B199628      Tonya S.,      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department Of Children And Family Services et al.)

The petition for an extraordinary writ is denied on the merits. Our previous order temporarily staying the section 366.26 hearing is dissolved. This opinion is final forthwith as to this court under rule 8.264 of the California Rules of Court.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

B194381 People (Not for Publication)  
v.  
Lorena Q.

The order under review is affirmed.

Rubin, J.

We concur: Cooper, P.J.  
Egerton, J. (Assigned)

DIVISION EIGHT (continued)

B189532 Rubin,  
v.  
Spolin, Silverman, Cohen & Bartlett et al.,

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B192632 People (Not for Publication)  
v.  
Watts

The judgment is modified insofar as it imposed a restitution fine and a parole restitution fine of \$1,300, and the amount of each fine is amended to the \$200 amount originally imposed by the trial court. In all other respects, the judgment is affirmed.

Cooper, P.J.

I concur: Rubin, J.

B178872 Logix Development Corporation et al., (Not for Publication)  
v.  
J. Roger Faherty

The judgment entered on August 2, 2004, is affirmed to the extent it awards \$5,536,102 to Logix and \$2,852,483 to the Howingtons. In all other respects, the judgment is reversed and the case is remanded with directions to conduct a new trial, under principles that conform to this opinion, on the question whether the Spice Hot channel was primarily explicit programming. The parties are to bear their own costs on appeal.

Flier, J.

We concur: Cooper, P.J.  
Rubin, J.

November 14, 2007 (Continued)

DIVISION EIGHT (continued)

B186805     People  
              v.  
              Kariger

Filed order denying petition for rehearing.